

Direction: CITY.0850.DSS

Chairperson Costa called the regular meeting of the Plan and Zoning Commission to order at 5:30 p.m. on Wednesday, February 27, 2013, in the Council Chambers of the West Des Moines City Hall, located at 4200 Mills Civic Parkway, in West Des Moines.

Roll Call: Andersen, Brown, Costa, Erickson, Hatfield.....Present
Cownie, Crowley.....Absent

Item 1 - Consent Agenda

Item 1a - Minutes of the meeting of February 13, 2013

Chairperson Costa asked for any comments or modifications to the February 13, 2013 minutes.

Moved by Commissioner Hatfield, seconded by Commissioner Andersen, the Plan and Zoning Commission approve the minutes of the meeting of February 13, 2013.

Vote: Andersen, Brown, Costa, Erickson, Hatfield.....Yes
Crowley, Cownie.....Absent
Motion carried.

Item 2 – Public Hearings

There were no Public Hearing items.

Item 3 – Old Business

There were no Old Business items.

Item 4 – New Business

Item 4a – Site Plan – McDonald’s Restaurant – McDonald’s USA L.L.C. – 1530 22nd Street – 0.95 acre – Construction of a McDonald’s Restaurant – SP-2012-009

David Bentz, Bishop Engineering, 3501104th Street, Urbandale, representing the applicant, requested site plan approval for a McDonald’s restaurant to be constructed south of the new Taco Bell on 22nd Street. He pointed out the access points, drive thru, and location of the detention pond to the north.

Roll was retaken at 5:33 pm.

Roll Call: Andersen, Brown, Costa, Erickson, Hatfield, Cownie.....Present
Crowley.....Absent

Mr. Bentz continued by focusing on the architectural details which included a roof cap element. He expressed agreement with all of staff recommendations of approval except for Item #2 which stated that the roof element (yellow arches) are considered signs and would be prohibited under the City’s sign code unless removed or otherwise made to comply with the sign code. McDonald’s has contended that the arch was not a sign, but a trademarked element and should be considered an architectural detail of the building.

Commissioner Erickson asked how storm water was managed for this site. Development Planning and Inspection Manager Shires elaborated that storm water was reviewed with the prior site plan for Taco Bell. At that time, the applicant constructed one detention basin along 22nd Street to handle a significant percentage of the storm water for the entire Westown Center, as well as entering into a multi-phased agreement with the City for plans and dates to bring the entire site into full compliance. Mr. Shires also provided that as a part of this project, the amount of storm water detention was not being increased and the project was in accordance with the storm water agreement.

Chairperson Costa questioned that since it was McDonald's contention that the yellow arch was a brand icon, how many McDonald's now have this new design. Mr. Benz stated that the whole front of the building was trademarked which included the white efface in the front and other features, as well as the single arch. He continued that there was no difference between the Taco Bell white shaped arch and that of the yellow McDonald's arch. He also assured the Commissioners that if McDonald's were to leave the building, the building would be neutralized by tearing down features and squaring off walls so that it would no longer look like a McDonald's. Currently, there are several McDonald's with this same design in the Des Moines area.

Planner Tragesser discussed the City's sign ordinance, and as outlined in the code, since the arches are not part of the building structure, they would be considered signage. After conducting research, Ms. Tragesser provided examples throughout the country where the McDonald's arch was incorporated into the roof which staff would consider part of the architecture and not signage. With regard to the Taco Bell, Ms. Tragesser provided that it was a regular curved feature of a neutral color. Other examples were provided where curvature features had been utilized throughout the City. The McDonald's yellow curved arch would be limited to use for McDonald's restaurants as it has been considered branding and readily recognized as unique to McDonald's.

Commissioner Hatfield commented that a yellow roof arch element could be installed over the windows which would then be considered an architectural element rather than signage. Mr. Shires echoed that this would have staff support and would be a good suggestion for McDonald's to consider.

Commission Erickson inquired if a Commission vote in favor of the applicant's recommendation would be in violation of the sign ordinance. Mr. Shires stated that the Commission would need to make a recommendation to the City Council that this was not signage, and thus not subject to sign code regulations. Otherwise, it would be necessary to amend the sign code or seek a variance from the Board of Adjustment.

Mr. Shires expressed that McDonald's was using durable materials for a quality building, but that roof signs were not allowed. Planner Tragesser continued that if the arches were lowered and reduced in size, the sign code requirements could be met. There will be prominent monument signs that would provide signage for McDonald's, as well as having building wall signage.

Mr. Bentz stressed that there was no difference between their designs than that of the white Taco Bell design that had been used throughout the country. He distributed examples of Taco Bells and other buildings that had arches that he eluded were standard trademarks and not considered signage. Mr. Bentz requested that the Commission consider the arch as an architectural detail and not a sign.

Chairperson Costa asked if anyone from the audience would like to speak to this item; seeing none, he asked for continued discussion or a motion.

Chairperson Costa agreed that the applicant made a good point in that Taco Bell's features were very similar to that of the McDonald's arch. He questioned if the City should have allowed Taco Bell to have their design.

After listening to the presentation and digesting the information provided, Commissioner Hatfield stated that the roof element was clearly a trademark for McDonald's, as well as Taco Bell's roof element, and that he did not view the roof cap element (yellow arches) as a sign. He supported approval for the applicant's request. Commissioner Andersen expressed agreement.

Commissioner Hatfield moved approval subject to staff recommendations with the exception that the arches be considered architectural elements and not signage.

Motion was made by Commissioner Hatfield, seconded by Commissioner Andersen, the Plan and Zoning Commission adopt a resolution recommending the City Council approve the Site Plan for a McDonald's restaurant with item #2 modified to state that the roof top elements are to be considered architectural elements and not signs, subject to the applicant meeting all City Code requirements and the following:

1. Provide final site plan drawings addressing staff comments, prior to any building permit, including footing and foundation permits.
2. That the Roof Cap Elements (yellow arcs) are considered architectural elements and not signs.
3. That the applicant will prepare a sign package for review which meets the requirements of the Zoning Code, Chapter 18 Signs, prior to any building permit, including footing and foundation permits.
4. That the City Council approves and accepts an irrevocable offer of dedication for right-of-way purposes of an additional 10 feet of property along the 22nd Street frontage of Lot 15 Westown Park.

Vote: Andersen, Brown, Costa, Cownie, Erickson, Hatfield.....Yes
CrowleyAbsent
Motion Carried.

Item 4b – Preliminary Plat/Site Plan – South Maple Grove Plat 13 – Maplewood L.L.C. – Southwest corner of Oxford Drive and 89th Street – 6.57 acres – Subdivide property into 10 lots and approve a site plan for a 94-unit multi-family development – PP-2013-001/SP-2013-001

Dean Roghair, Civil Design Advantage, 3405 SE Crossroads, Grimes, representing the applicant, requested preliminary plat and revised site plan approval to subdivide the property into 10 lots for a multi-family condominium development on the west half of the partially developed former Triton project. Initially, there were to be 108 units, but now there are plans for a total of 94 units, for a reduction of 14 units, which now allows for a club house and pool to be constructed at the southeast corner of the site. Mr. Roghair continued by pointing out the access from the east at 89th Street and from the north at Oxford Drive. He provided that there was an existing access easement to the south to allow for the future vacation of 88th Street as it curves around. All utility connections are available and in place with an existing detention basin to the east. There will be extensive landscaping.

Jeff Bodin, Bodin Design Build, 12151 Sunset Terrance, Clive, stated there are several different sized units. He provided architectural elements and examples of the materials (brick and vinyl siding) to be used and are to complement the project to the east. The units are all to be three storied except for the units on Oxford Drive to the north which are two storied.

Chairperson Costa inquired as to the placement of the clubhouse and the pool. Mr. Bodin stated that the location was chosen near an access point so that property owners could obtain their mail on the way home and/or pick up children at the pool. Also, if the area to the south was ever to develop, the pool area would then be centralized.

Chairperson Costa asked if anyone from the audience would like to speak to this item; seeing none, he asked for continued discussion or a motion.

Motion was made by Commissioner Erickson, seconded by Commissioner Brown, the Plan and Zoning Commission adopt a resolution recommending the City Council approve the Preliminary Plat to create 10 lots and approve a Site Plan for a 94 unit multi-family development, subject to the applicant meeting all City Code requirements and the following:

1. The applicant providing final drawings; addressing staff comments of the preliminary plat and site plan prior to the construction of any improvements on the site and prior to the final plat proceeding to the City Council for approval.
2. The applicant acknowledging that the associated final plat must be approved and released for recordation by the City and recorded with the County prior to the issuance of any building permits, including footing and foundation permits for any lot within the plat.
3. The applicant acknowledging that prior to the final plat proceeding to City Council for approval, applicant will need to complete the following public improvements, or petition to the City Council to provide surety in lieu of completion and acceptance of the following public improvements:
 - a. Public sanitary sewer
 - b. Public sidewalks
4. The applicant obtaining approval of Public Improvement Construction Plans for all public improvements prior to their construction. Furthermore, the applicant acknowledging that all public improvements must be completed and approved by the City prior to issuance of any occupancy permits, including temporary occupancy permits for any dwelling within the plat; and,
5. The applicant providing as-built information for the detention facilities which provide storm water management for any property within this plat's area prior to issuance of a final occupancy permit, for any building on any parcel created with this plat.
6. The applicant acknowledging that an executed maintenance easement agreement and maintenance covenant will need to be executed prior to the final plat proceedings to the City Council for approval. As part of the maintenance covenant, the applicant will be responsible to provide a letter certifying the detention facility is in conformance with the approved storm water management plan and as-builts of the detention facility. Letter and as-builts will need to be signed/sealed in accordance with Chapter 6, 193C-6.1(542B) of the Iowa Code.

Vote: Andersen, Brown, Costa, Cownie, Erickson, Hatfield.....Yes
 Crowley.....Absent
 Motion Carried.

Item 5 – Staff Reports

There were not staff reports.

Item 6 – Adjournment

Chairperson Costa asked for a motion to adjourn the meeting.

Moved by Commissioner Hatfield, seconded by Commissioner Brown to adjourn the meeting.

Vote: Andersen, Brown, Costa, Cownie, Erickson, Hatfield..... Yes
Crowley.....Absent
Motion carried.

The meeting adjourned at 6:07 p.m.

Chris Costa, Chairperson
Plan & Zoning Commission

Kimberly Taylor, Recording Secretary